

Good afternoon Mr. Chairman and Members. I'm Leslie Lohse, Chairwoman of the Board of Directors of the California Tribal Business Alliance. I am here today to speak on behalf of our member tribes.

Our concern is about making agreements and honoring commitments.

This State, this Governor and this Legislature have entered into Tribal-State Gaming Compacts with 66 California tribal governments. Each and every one of these compacts has a provision in which the State agreed that only federally recognized Indian tribes can offer what's called "gaming devices" to the public.

This is consistent with the direction given in an overwhelming vote by California voters in 2000.

And yet, you are here today to consider the authorization of the play of poker on internet-connected devices in direct violation of those agreements with tribes.

Since 2004, tribal gaming compacts have required tribes to make hefty payments to the State's General Fund. Those compacts would not have been approved by the federal government, if the tribes' ability to earn enough money to make the payments was not protected in the agreements.

As a result, even in a down economy, California tribes are paying one million dollars a day into the State's General Fund. 365 million dollars last year; at least 365 million next year. That means billions of dollars between now and when the compacts expire in 2030.

If the State were to allow a non-Indian business to offer gaming devices, the compacts provide that the tribes will stop making those payments to the General Fund.

I should also mention that much of the money used to make revenue sharing payments to tribes that do not operate casinos would also stop if the State were to authorize internet poker.

Internet poker can be played by one person at home. Or it can be played on banks of internet-connected devices lined up at a downtown card club.

Proponents of internet poker can argue that internet-connected devices aren't illegal slot machines under the Penal Code. Or they could include a Penal Code exemption for the devices, just to make sure. They might also argue that such an operation wouldn't violate the state constitution.

But they can't change the terms of the compacts, which very clearly define a "gaming device." And that definition very clearly includes the play of poker on an internet-connected electronic device.

Let's look at that definition:

A "gaming device" includes any electronic device that allows an individual to place a bet, play of a game of chance or skill, and view notification of any winnings. It doesn't matter if the game is "house banked" or whether the winnings come from the bets made by the players – as in poker. It doesn't matter if it's Class II or Class III – those definitions do not apply.

What matters when we talk about breaching the tribes' exclusive right to offer "gaming devices" is that the electronic device allows a player to connect to a system, make a bet, play the game, and view his entitlement to any winnings.

That includes a personal computer in a private home.

It includes a bank of internet-connected computers in a card club, which is exactly why card clubs are behind legislation that was proposed last summer and appears to be resurfacing again at this time.

The card clubs, as you will recall, tried to get the voters to authorize thirty thousand slot machines in their urban casinos in 2004. The four card clubs behind the internet poker bill last summer collectively spent 12 million dollars on the 2004 slot machine initiative. It failed when nearly 84 percent (83.8) of the voters rejected the idea.

So now the card clubs are trying to get by way of the back door the same slot machine deal they couldn't get through the front door five years ago.

Card clubs, I should note, do not contribute anything to the state's General Fund. Their payments to the state only cover the cost of state regulation. If they are here today stating that they are willing to pay a 10 percent tax on

future internet poker winnings, how about applying that same tax to their current earnings. They grossed \$889 million dollars in 2008. At whatever rate you might propose, there is some sizeable revenue there for the state.

You have heard several estimates of how much revenue the State might expect from legalizing internet poker. At CTBA, we looked at that.

Based on data specific to California online poker players that we applied to existing models in Europe, \$15 to \$20 million dollars initially is a reasonable estimate, in our view.

But whatever estimate you consider to be reasonable, you can be assured of the loss of \$365 million dollars from tribes because there is no doubt that State authorization of intrastate internet poker violates the State's agreements with the tribes.

We are all aware of federal legislation to legalize and regulate internet gambling. Those bills will not get through congress this year. But we all know that they will be back after the November elections.

How the State and the Tribes deal with federal authorization for internet gambling is an issue separate and apart from what you are discussing today – State authorization of intrastate internet poker.

And that gets me back to where I started – about making agreements and honoring commitments.

The ink is not even dry on two more compacts that each and every member of this committee supported in December and January. Both of those compacts have exclusivity clauses.

Many of you voted for the 2004 and 2006 compact amendments. Those compacts all have exclusivity provisions.

In December, the Ninth Circuit Court of Appeal upheld the tribal exclusivity provision and dismissed a lawsuit brought by a card club challenging the 2004 tribal compacts.

It's amazing to us how quickly agreements and honoring commitments go by the wayside when tribes seemingly 'have the better end of the stick.'

When the 1999 compacts were ratified the agreement said, “The State enters into this Compact out of respect for the sovereignty of the Tribe; in recognition of the historical fact that Indian gaming has become the single largest revenue-producing activity for Indian tribes in the United States; out of a desire to terminate pending “bad faith” litigation between the Tribes and the State; to initiate a new era of tribal-state cooperation in areas of mutual concern; out of a respect for the sentiment of the voters of California who, in approving Proposition 5, expressed the belief that the forms of gaming authorized herein should be allowed....”

And it goes on to state, “The parties are mindful that this unique environment is of great economic value to the Tribe and the fact that income from Gaming Devices represents a substantial portion of the tribes’ gaming revenues. In consideration for the exclusive rights enjoyed by the tribes, and in further consideration for the States willingness to enter into this Compact, the tribes have agreed to provide to the State, on a sovereign-to-sovereign basis, a portion of it revenue from Gaming Devices.”

So, there it is....barely 10 years ago we negotiated and believed together that our agreements would be honored.....but, here we are today...discussing your consideration of authorizing play of poker on internet-connected devices in direct violation of those agreements with our tribes.

Speaking on behalf of the member tribes of the California Tribal Business Alliance (CTBA)...we say your time is better spent looking for other ways to address the budgetary challenges of California; this avenue is one that is filled with too many issues that looks to cost California millions of dollars each year ending in billions by the year 2030.

Thank you.....